



4191-02U

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA-2017-0034]

RIN 0960-AI16

Removal of Special Payments at Age 72

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are removing from the Code of Federal Regulations our “Special Payments at Age 72” rules because they are obsolete. We are removing these rules in accordance with the requirements of Executive Order (E.O.) 13777.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Linda Appler, Social Security Administration, 410-966-6760 or Regulations@ssa.gov. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION: We are removing our rules, “Special Payments at Age 72,” in accordance with E.O. 13777 (“Enforcing the Regulatory Reform

Agenda”).¹ The Executive Order requires agencies to identify rules that, among other things, are outdated or unnecessary, and repeal, replace, or modify them, consistent with applicable law. These rules, found in sections 404.380-404.384 of our rules, implement section 228 of the Social Security Act (Act). Congress enacted section 228 of the Act in 1966 to provide a special payment to individuals who had little or no chance to become fully insured for regular Social Security benefits during their working years because they were too old when the Social Security program began, or when Social Security coverage was first extended to their jobs.² Congress amended section 228 in 1990 to prohibit entitlement to special age 72 payments for individuals who attained age 72 after 1971.³ We amended our rules in 1992 to reflect this change in the Act.⁴

We are removing these rules from the CFR because they are obsolete and no longer necessary. We are also revising other sections in the CFR to remove references to special age 72 payments. There are no individuals who currently receive special age 72 payments, and no individuals will become entitled to these payments in the future.

We are also rescinding several Social Security Rulings (SSR) that relate to special age 72 payments because those SSRs are also obsolete. We are rescinding, under a separate Notice published concurrently with this final rule, the following SSRs:

- SSR 67-28: Section 228(c)(1) and (h)(2). -- Special Age 72 Payments For Uninsured Individuals -- Reduction Because Of Eligibility For Governmental Pension;

¹ 82 FR 12285.

² Section 302 of Pub. L. 89-368, 80 Stat. 38.

³ Section 5114 of Pub. L. 101-508, 104 Stat. 1388, 1388-273.

⁴ 57 FR 21598.

- SSR 68-13: Sections 228(c)(1) and 228(h)(2). -- Special Age 72 Payments -- Governmental Pension System -- Teachers' Retirement Fund;
- SSR 68-36: Section 228(c) and 228(h)(2). -- Special Age 72 Payment -- Reduction Because Of Eligibility For Veterans' Administration Pension;
- SSR 68-37: Section 228(c) and (h). -- Special Age 72 Payment -- Eligibility For Teacher's Annuity Purchased From Personal Funds Not Cause For Offset;
- SSR 68-52: Sections 228(c)(1), 228(h)(2) and (3). -- Special Age 72 Payments For Uninsured Individual -- Reduction Due To Commutation Of Periodic Pension;
- SSR 68-78: Sections 228(c)(1) and (h)(2). -- Special Age 72 Payments For Uninsured Individuals -- Reduction Because Of Eligibility For Governmental Pension;
- SSR 70-23c: Section 228(c). -- Special Age 72 Payments -- Effect On Claimant's Eligibility Where Application Not Filed By Spouse Who Is Eligible For Periodic Benefit Under Governmental Pension System;
- SSR 72-27: Sections 228 (of Social Security Act) and 103 of Social Security Amendments of 1965. -- Special Age 72 and Hospital Insurance Benefits -- 5 Years Continuous Residence Requirement; and
- SSR 74-27c: Sections 205(g), 228(a) and (e) (42 U.S.C. 405(g), 428(a), and 428(e)). -- Special Age 72 Payments -- Application and Residence Requirements -- Constitutionally [*sic*] as to Puerto Rican Residents.

REGULATORY PROCEDURES

Justification for Issuing a Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We find that there is good cause under 5 U.S.C. 553(b)(B) to issue this regulatory change as a final rule without prior public comment. We find that prior public comment is unnecessary because this final rule only removes from the Code of Federal Regulations obsolete and unnecessary rules that do not affect any living beneficiaries.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of this rule provided for in 5 U.S.C. 553(d)(3). For the reasons stated above, we find it unnecessary to delay the effective date of the changes we are making in this final rule. Accordingly, we are making them effective upon publication.

Executive Order 12866 as supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563. Thus, OMB did not review the final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because the rule affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

This final rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Social Security – Retirement Insurance; and 96.004, Social Security – Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Nancy A. Berryhill,
Acting Commissioner of Social Security.

For the reasons set out in the preamble, we amend 20 CFR chapter III part 404, Subparts A, B, C, D, E, and G as set forth below:

**PART 404—FEDERAL OLD AGE, SURVIVORS AND DISABILITY
INSURANCE (1950-)**

Subpart A—Introduction, General Provisions and Definitions

1. The authority citation for subpart A of part 404 continues to read as follows:

Authority: Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 403, 405(a), 416(j), and 902(a)(5)) and 48 U.S.C. 1801.

2. Amend § 404.2 by revising paragraph (c)(2) to read as follows:

§ 404.2 General definitions and use of terms.

* * * * *

(c) * * *

(2) *Benefit* means an old-age insurance benefit, disability insurance benefit, wife's insurance benefit, husband's insurance benefit, child's insurance benefit, widow's insurance benefit, widower's insurance benefit, mother's insurance benefit, father's insurance benefit, or parent's insurance benefit under Title II of the Act. (Lump sums, which are death payments under title II of the Act, are excluded from the term benefit as defined in this part to permit greater clarity in the regulations.)

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Subpart B—Insured Status and Quarters of Coverage

3. The authority citation for subpart B of part 404 continues to read as follows:

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 412, 413, 414, 416, 417, 423, and 902(a)(5)).

4. Amend § 404.110 by revising paragraph (d)(1)(ii) to read as follows:

§ 404.110 How we determine fully insured status.

* * * * *

(d) * * *

(1)* * *

(ii) If you file an application in June 1992 or later and you are not entitled to a benefit under section 227 of the Act in the month the application is made, we may consider you to have at least one QC before 1951 if you have \$400 or more total wages before 1951, as defined in paragraph (d)(2) of this section, provided that the number of QCs credited to you under this paragraph plus the number of QCs credited to you for periods after 1950 make you fully insured.

* * * * *

Subpart C—Computing Primary Insurance Amounts

5. The authority citation for subpart C of part 404 continues to read as follows:

Authority: Secs. 202(a), 205(a), 215, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(a), 405(a), 415, and 902(a)(5)).

§ 404.271 [Amended]

6. Amend § 404.271 by removing paragraph (a) and redesignating paragraphs (b) through (d) as paragraphs (a) through (c).

7. Amend § 404.278 by revising paragraph (b)(1) to read as follows:

§ 404.278 Additional cost-of-living increase.

* * * * *

(b) * * *

(1) To compute the additional increase for all individuals and for maximum benefits payable to a family, we begin with the year in which the insured individual became eligible for old-age or disability benefits to which he or she is currently entitled, or died before becoming eligible.

* * * * *

**Subpart D— Old-Age, Disability, Dependents' and Survivors' Insurance Benefits;
Period of Disability**

8. The authority citation for subpart D of part 404 is revised to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, and 902(a)(5))

9. Amend § 404.301 by revising paragraphs (b) and (c) and removing paragraph (d).

The revisions read as follows:

§ 404.301 Introduction.

* * * * *

(b) *For a worker's dependents*, benefits for a worker's wife, divorced wife, husband, divorced husband, and child; and

(c) *For a worker's survivors*, benefits for a worker's widow, widower, divorced wife, child, and parent, and a lump-sum death payment.

10. Amend § 404.304 by revising paragraph (e) as follows:

§ 404.304 What are the general rules on benefit amounts?

* * * * *

(e) *Government pension offset*. If you are entitled to wife's, husband's, widow's, widower's, mother's, or father's benefits and receive a Government pension for work that was not covered under Social Security, your monthly benefits may be reduced because of that pension. For more information about this, see § 404.408a, which covers reductions for Government pensions.

* * * * *

§§ 404.380 through 404.384 [Removed and Reserved]

11. Remove the undesignated center heading, “Special Payments at Age 72,” and remove and reserve §§ 404.380 through 404.384.

Subpart E—Deductions; Reductions; and Nonpayments of Benefits

12. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 216(l), 222(c), 223(e), 224, 225, 702(a)(5), and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 416(l), 422(c), 423(e), 424a, 425, 902(a)(5), and 1320a-8a); 48 U.S.C. 1801.

13. Amend § 404.401 by revising the introductory text to read as follows:

§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.

Under certain conditions, the amount of a monthly insurance benefit or the lump-sum death payment as calculated under the pertinent provisions of sections 202 and 203 of the Act (including reduction for age under section 202(q) of a monthly benefit) must be increased or decreased to determine the amount to be actually paid to a beneficiary. Increases in the amount of a monthly benefit or lump-sum death payment are based upon recomputation and recalculations of the primary insurance amount (see subpart C of this part). A decrease in the amount of a monthly benefit or lump-sum death payment is required in the following instances:

* * * * *

14. Amend § 404.460 by revising paragraph (a) introductory text to read as follows:

§ 404.460 Nonpayment of monthly benefits to aliens outside the United States.

(a) *Nonpayment of monthly benefits to aliens outside the United States more than 6 months.* Except as described in paragraph (b) and subject to the limitations in paragraph (c) of this section after December 1956 no monthly benefit may be paid to any individual who is not a citizen or national of the United States, for any month after the sixth consecutive calendar month during all of which he is outside the United States, and before the first calendar month for all of which he is in the United States after such absence.

* * * * *

Subpart G—Filing of Applications and Other Forms

15. The authority citation for subpart G of part 404 is revised to read as follows:

Authority: Secs. 202(i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

16. Amend § 404.620 by revising paragraph (a) introductory text and removing and reserving paragraph (b).

The revision reads as follows:

§ 404.620 Filing before the first month you meet the requirements for benefits.

(a) *General rule.* If you file an application for benefits before the first month you meet all the other requirements for entitlement, the application will remain in effect until we make a final determination on your application unless there is an administrative law judge hearing decision on your application. If there is an administrative law judge hearing

decision, your application will remain in effect until the administrative law judge hearing decision is issued.

* * * * *

§ 404.621 [Amended]

17. Amend § 404.621 by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d).

[FR Doc. 2018-09910 Filed: 5/9/2018 8:45 am; Publication Date: 5/10/2018]